

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN SENATE JUNE 9, 2014

AMENDED IN SENATE MAY 28, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 380

Introduced by Assembly Member Dickinson

February 14, 2013

An act to add Article 5 (commencing with Section 25547) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL’S DIGEST

AB 380, as amended, Dickinson. Spill response for railroads.

Existing law requires the Office of Emergency Services to implement regulations establishing minimum standards for business plans and area plans relating to the handling and release or threatened release of hazardous materials. Existing law requires the establishment of a statewide environmental reporting system for these plans.

This bill would require a rail carrier, as defined, to report specified information regarding the transportation of hazardous materials, beginning no later than January 31, 2015, to the office on a quarterly basis. The bill would require each rail carrier to maintain a response management communications center, as specified. The bill would require the office to disseminate information necessary for developing

emergency response plans from the quarterly reports it receives pursuant to this act to each unified program agency, as defined, when the office determines a unified program agency area of responsibility may be impacted by a hazardous material or oil cargo spill. The bill would require each rail carrier to provide the office with a summary of the rail carrier's hazardous materials emergency response plan, as specified. The bill would require the office to provide a copy of each summary report of a rail carrier's hazardous materials emergency response plan to each unified program agency when the office determines a unified program agency area of responsibility may be impacted by a rail carrier spill of hazardous material or oil cargo and that unified program agency has been identified by the rail carrier, in consultation with the office, as able to receive security sensitive information, as specified, on a need-to-know basis. The bill would prohibit a recipient of the reports and hazardous materials emergency response plan from divulging or making known that information to unauthorized recipients, as specified. The bill would ~~exempt~~ *deem* the reports and hazardous materials emergency response plan ~~from the California Public Records Act to be proprietary information and would limit the dissemination of that information to those government personnel with emergency response, planning, or security-related responsibilities on a need-to-know basis, as provided for pursuant to federal law, except as specified.~~

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 5 (commencing with Section 25547) is
- 2 added to Chapter 6.95 of Division 20 of the Health and Safety
- 3 Code, to read:

Article 5. Spill Prevention and Response for Railroads

25547. For purposes of this article, the following terms have the following meanings:

(a) “Hazardous material” means a substance or material that the United States Secretary of Transportation has determined to be capable of posing an unreasonable risk to the health, safety, and property of residents when transported in commerce and has been designated as hazardous pursuant to Section 5103 of Title 49 of the United States Code. Hazardous material includes hazardous substances, as defined in Section 25501, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in Section 172.101 of Title 40 of the Code of Federal Regulations, and materials that meet the defining criteria for hazard classes and divisions in Part 173 of Title 49 of the Code of Federal Regulations.

(b) “Office” means the Office of Emergency Services.

(c) “Oil” has the same meaning as in Section 8670.3 of the Government Code.

(d) “Rail carrier” means a person providing common carrier railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation.

25547.2. (a) No later than January 31, 2015, and every three months thereafter, a rail carrier shall submit to the office commodity flow data for the prior three months broken down by county and track route relevant to the 25 largest hazardous material commodities transported through the state, including tank cars loaded with oil cargo. The commodity flow data shall conform to all of the following:

(1) Be in accordance with Subpart G of Part 172 of Title 49 of the Code of Federal Regulations and in Standard Transportation Commodity Code numeric sequence.

(2) Include a description of the hazardous material or oil cargo and commodity name organized by number of carload type, including tank cars and gondola cars, intermodal loads, including trailers, containers and tank containers, and total loads transported within a county over the prior three months.

1 (3) Be encrypted and stamped as security sensitive information
2 material, as identified pursuant to Section 15.5 of Part 15 of Title
3 49 of the Code of Federal Regulations.

4 (b) The office shall disseminate information necessary for
5 developing emergency response plans from the quarterly reports
6 prepared pursuant to this section in whole or in summary form to
7 a unified program agency, as defined in Section 25501, when the
8 office determines a unified program agency area of responsibility
9 may be impacted by a hazardous material or oil cargo spill. Rail
10 carriers shall provide additional information to the office related
11 to the specific commodity flow-~~data~~, data to assist a unified
12 program agency with its emergency response planning.

13 25547.4. Each rail carrier shall maintain a response
14 management communications center, which shall provide real-time
15 information to an authorized public safety answering point or 911
16 emergency response center about the train consist involved in a
17 hazardous material or oil cargo spill or other critical incident,
18 including, but not limited to, both of the following:

19 (a) Hazardous material movement shipping papers, including
20 a way bill or total trace, detailing the hazardous material or oil
21 cargo.

22 (b) Information that can assist the primary local public safety
23 agency in containing and safely removing a hazardous material
24 spill.

25 25547.6. (a) Each rail carrier shall provide the office with a
26 summary of the rail carrier's hazardous materials emergency
27 response plan. The hazardous materials emergency response plan
28 shall not be posted on a public Internet Web site or be subject to
29 public agency or public review and approval processes.

30 (b) The office shall provide a copy of each summary report of
31 a rail carrier's hazardous materials emergency response plan to
32 each unified program agency, as defined in Section 25501, when
33 the office determines a unified program agency area of
34 responsibility may be impacted by a rail carrier spill of hazardous
35 material or oil cargo and that unified program agency has been
36 identified by the rail carrier, in consultation with the office, as able
37 to receive security sensitive information, as identified pursuant to
38 Section 15.5 of Part 15 of Title 49 of the Code of Federal
39 Regulations, on a need-to-know basis.

1 25547.8. (a) A recipient of the reports and plans provided
2 pursuant to Sections 25547.2 and 25547.6 shall not divulge or
3 make known that information to unauthorized recipients, including,
4 but not limited to, individuals or organizations not legally
5 authorized to engage in emergency planning and response
6 activities.

7 (b) The reports and plans provided pursuant to Sections 25547.2
8 and 25547.6 shall be ~~exempt from the California Public Records~~
9 ~~Act (Chapter 3.5 (commencing with Section 6250) of Division 7~~
10 ~~of Title 1 of the Government Code)~~, *except that the deemed to be*
11 *proprietary information and shall be disseminated only to those*
12 *government personnel with emergency response, planning, or*
13 *security-related responsibilities on a need-to-know basis, as*
14 *provided for pursuant to federal law, including, but not limited to,*
15 *Part 15 (commencing with Section 15.1), Part 1520 (commencing*
16 *with Section 1520.1), and Part 172 (commencing with Section*
17 *172.1) of Title 49 of the Code of Federal Regulations and Section*
18 *11904 of Title 49 of the United States Code. However, the office*
19 *may authorize disclosure if, in the discretion of the office,*
20 *disclosure relevant to a particular shipment is necessary to provide*
21 *for its safe transport through the state and is necessary to assist*
22 *with emergency response planning.*

23 SEC. 2. The Legislature finds and declares that Section 1 of
24 this act, which adds Section 25547.8 to the Health and Safety Code,
25 imposes a limitation on the public's right of access to the meetings
26 of public bodies or the writings of public officials and agencies
27 within the meaning of Section 3 of Article I of the California
28 Constitution. Pursuant to that constitutional provision, the
29 Legislature makes the following findings to demonstrate the interest
30 protected by this limitation and the need for protecting that interest:

31 In order to provide for the safe transport of hazardous materials
32 through the state and to avoid creating a transportation security
33 risk, it is in the state's interest to limit public access to this
34 information.